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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,087	03/07/2000	Valerie Anne Scott	SG 99428	1098

7590 03/03/2003

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EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/520,087	SCOTT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Yaritza Guadalupe	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 February 2003 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 15-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 15-21 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_  
4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

**REOPENING OF PROSECUTION –  
AFTER FINAL REJECTION**

1. In view of the Applicant Arguments filed on February 12, 2003, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Idan (US 4,665,622 ) in view of Cameron et al. ( US 5,001,836 ).

Idan discloses an optical sighting device comprising an elongated housing ( 10 ), a lens (110) located at one end of the light channel and having a partially reflective surface ( See Column 6, lines 2 – 5 ), a light source ( 32 ) for emitting light toward said reflective surface to produce a light spot by direct imaging of the laser diode on said reflecting surface and wherein

the light spot is being superimposed on a target when sighting through the light channel ( See Column 6, lines 20 – 28 ), a battery ( B ) for providing electric current, and an energizing circuit ( 33 ) for energizing the laser diode and operable to apply a pulsating electric current from said battery to said laser diode source. Idan also discloses a control means ( 24 ) provided for energizing the laser diode when a weapon ( 14 ) to which said optical sight is mounted is to be used and for automatically reducing energization of the laser diode in dependence of a predetermined condition and for adjusting the intensity of the light spot and a pulse width modulation of the laser diode source ( See Column 4, lines 54 – 64 ). Idan discloses a manually operated switch ( 16 ) for energizing the laser diode. Idan discloses a sensor for detecting the presence of ambient light for energizing the laser diode at lightness and reducing the energizing of the laser at darkness ( See Column 3, lines 37 – 41 ).

Idan does not discloses the tube and the laser diode as stated in claim 15.

Regarding the tube as stated in claim 15 : Idan discloses an optical sighting device having an optical array mounted on a frame. Cameron et al. discloses an apparatus having an optic sight ( 20 ) contained in a tube having a distal end and a proximal end defining a channel. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a tube as taught by Cameron et al. to the device disclosed by Idan in order to protect the optical elements from external damages and prolong the durability of the device.

With respect to the laser diode as stated in claim 15 : Idan discloses the use of an LED as the light source for emitting a light beam ( See Column 4, line 41 ). Cameron et al. discloses a firearm bore sight comprising a light source ( 74 ) such as a laser diode ( See Column 3, lines 44 – 45 ). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a light source being a laser diode as taught by Cameron et al. in the optical sighting device disclosed by Idan in order to enhance the device by providing a homogeneous collimated ray of light and to increase reliability of the device by using a light source better suited for battery operated devices and low voltage applications.

4. Claims 19 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Idan ( US 4,665,622 ) in view of Cameron et al. ( US 5,001,836 ) as applied to claim 15 above, and further in view of Bindon et al. ( US 5,924,234 ).

Idan and Cameron et al. discloses an optical sighting device a stated in paragraph 3 above.

Idan and Cameron et al. do not disclose the time – out circuit as stated in claims 19 - 21.

With respect to claims 19 - 21 : Bindon et al. discloses a sighting device comprising a LED ( 32 ) having a control means that is manually or electronically controlled ( See Column 2, lines 55 – 56 ), the electronically controlled being considered a time – out circuit since a predetermined period can be pre – set in order to operate ( energized / de-energized ) the device. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide an electronically controlled means / time – out circuit as part of the control means as taught by Bindon et al. in the apparatus disclosed by Idan since the addition of operative commands to an electronic control means is well known in the art particularly if it is desired to manipulate the period of energizing or operating a device as taught by Idan and Bindon et al.

*Response to Arguments*

5. Applicant's arguments with respect to claims 15 - 21 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Y. Guadalupe  
February 25, 2003

  
DIEGO F.F. GUTIERREZ  
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